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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,716	10/29/2003	Anne Louise Miller	1443.015US2	5586
21186	7590	12/13/2006	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			TAWFIK, SAMEH	
			ART UNIT	PAPER NUMBER

3721

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/695,716

Applicant(s)

MILLER, ANNE LOUISE

Examiner

Sameh H. Tawfik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11012006.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wade (U.S. Patent No. 5,378,066) in view of Chalin et al. (U.S. Patent No. 3,873,735).

Wade discloses a method for providing an enhanced opening system for a sealed container comprising: providing a bag having lines of weakness (Figs. 19-20D) and a pull-tab opener secured to the bag proximate to the lines of weakness (Figs. 19-20D; via 410), the pull-tab opener having a pull-tab opening integral therewith, wherein the pull-tab opening is a hole large enough to be hooked with hooking means (Figs. 19-20D; via through opening/hole 420) and pulled on to open the sealed container without utilizing a pinch force (note that the hole 420 seems large enough to be hooked with hooking means via the thumb as described in column 13, lines 17-24).

Wade does not disclose the step of providing suitable markings to convey instructions to the pull on the pull-tab opener to access the contents within the sealed container without utilizing a pinch force, wherein the sealed container is adapted to be opened easily with the pull tab opener by a person who follows the instructions conveyed by the markings.

However, Chalin discloses a similar method for providing an opening system for container comprising the step of providing suitable markings via words to convey instructions to

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pull on the pull-tab opener to access the package contents without utilizing a pinch force, wherein the package is adapted to be opened easily by a person who follows the instructions conveyed by the markings (Figs. 26-28; via the printed instructions on the bag explaining how to open such bag through opening hole 824).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Wade's method by having the step of providing suitable markings to convey instructions to pull on the pull tab opener to access package contents, as suggested by Chalin, in order to make it easy and simple opening and handling such containers (column 3, lines 39-41).

Regarding claims 13, 14, 16, 39, and 40: Wade discloses that the pull-tab opener is a reusable pull-tab opener with reusable securing means (Figs. 16-20D; via peel off glue 411).

Regarding claim 22: Wade discloses that the package contents comprise at least one product disposed within the sealed container, (Figs. 19-20D; via 402).

Regarding claims 23-25: Wade does not disclose that the product is a disposable absorbent garment, selected from diaper, training pants, adult incontinence garment and feminine napkin.

However, the examiner takes an official notice that packaging such product such as disposable absorbent garment, selected from diaper, training pants, adult incontinence garment and feminine napkin in bag is old, well known, and available in the art.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Wade in view of Chalin's method by inserting any of disposable absorbent garment, selected from diaper, training pants, adult incontinence garment

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and feminine napkin in the bag, as a matter of engineering design choice, specially Wade's bag is capable of packaging such articles.

Regarding claim 26: it is inherent that Wade's package is capable of contenting articles of different types and sizes.

Regarding claim 27: Wade discloses that the bag and pull-tab opener are made from a polymeric plastic film, paper or paper composite and pull-tab opening is a finger sized opening (Figs. 19-20D and column 8, lines 39-50).

Regarding claim 28: Wade discloses that the hooking means comprises one to three fingers or an object, the object having a maximum diameter not greater than about eight cm, (Figs. 19-20D; via holes 420).

Regarding claim 29: Wade discloses that the lines of weakness are torn and an opening is created when the pull-tab opener is pulled (Figs. 20A-20D).

Regarding claim 30: Wade discloses that the package contents (402) are oriented proximate to the opening to facilitate easy removal.

Regarding claims 19 and 31: Wade discloses that wherein at least a portion of the lines of weakness form a V-shape having a perforation junction or a U-shape (Fig. 19; via 412 and 414), wherein the U-shape has two substantially parallel lines of perforations and a slit or third line of perforations located substantially perpendicular to and in between the two substantially parallel lines of perforations at one end (Fig. 19).

Regarding claim 32: Wade discloses that the portion of the lines of weakness form the V-shape (Fig. 19; via upper portion of 414 in V-shape).

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Regarding claim 33: Wade discloses that a portion of the lines of weakness form the U-shape and the reusable pull-tab opener covers the two substantially parallel line of perforations (Fig. 9; via 412).

Regarding claims 17 and 34: Wade discloses that the package is comprised of six panels arranged in a rectangular configuration and the substantially parallel lines of perforations extend across a portion of two adjacent panels, see for example (Figs. 19-20D).

Regarding claims 18 and 35: Wade discloses that the package is comprised of six panels arranged in a rectangular configuration and the substantially parallel lines of perforations are contained on a single panel, see for example (Figs. 19-20D).

Regarding claims 41-49: Wade as modified by Chalin disclose that the hole is not greater than about 15 cm in length or width; is not greater than about 7.6 cm in at least one of length or width; is not less than about 1.3 cm in at least one of length or width; and is not greater than about 15 cm in at least one of length or width, see for example (Fig. 19).

Response to Arguments

Applicant's arguments filed 11/01/2006 have been fully considered but they are not persuasive.

Applicant argues that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the

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examiner maintains that both applied references to Wade and Chalin are related to the same art of package and technique of opening the package.

Applicant further argues that Wade does not disclose lines of weakness of any type in the embodiment. The examiner maintains that Wade clearly discloses weakness line as disclosed in Fig. 19 via the broken lines 412, see column 12, lines 61-63.

Applicant argues that Wade utilizes a pinching force during opening of the package, in contrast to the present invention, as the pinching force is not required while the only force been used is a pulling force. The examiner maintains that as Wade disclosed the hole 420 to be used and assisting in opening the package and be considering Figs. 20A-20D it seems that the pulling force is the only used force to open the package as seen in the direction of the opening arrows as the hole 420 is between the thumb and the fingers while pulling out 410 (column 13, lines 17-24).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

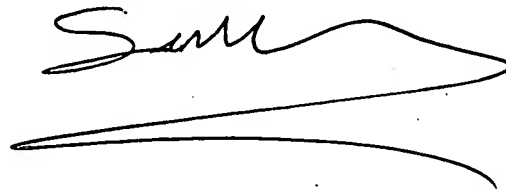
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470.

The examiner can normally be reached on Tuesday - Friday from 9:00 AM to 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sameh H. Tawfik
Primary Examiner
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A handwritten signature in black ink, appearing to read 'Sameh', followed by a long, horizontal, slightly wavy line that extends to the right.

ST.